

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Developing a Unified Inter-carrier)	CC Docket No. 01-92
Compensation Regime)	
)	

Comments of the
Regulatory Commission of Alaska

Date: May 23, 2005

_____/s/
Kate Giard, Chairman
Regulatory Commission of Alaska

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The Regulatory Commission of Alaska (RCA) appreciates an opportunity to respond to the Further Notice of Proposed Rulemaking (CC Docket No. 01-92) of the Federal Communications Commission (Commission) seeking comment on reform of intercarrier compensation (ICC) policies.

Summary

The Commission should consider Alaska's unique circumstances and network structure as it reforms intercarrier compensation mechanisms. Forbearance from section 254(g)¹ rate averaging and rate integration policies is not justified and would be harmful to Alaska and possibly other states. The RCA supports the NARUC² principles but does not endorse any particular proposal at present. We encourage the Commission to work with the states to help quantify, at a reasonably informative level,

¹47 U.S.C. § 254(g).

²National Association of Regulatory Utility Commissioners.

the impacts of the various proposals. The Commission should not adopt any intercarrier compensation policy without having a reasonable understanding of the consequences to consumers and carriers. Further, any change in intercarrier compensation mechanism should be coordinated with appropriate changes to the universal service fund so as to prevent undue rate shock.

I. The Commission should consider Alaska's unique circumstances and network structure as it reforms intercarrier compensation.

As the Commission considers the reform of intercarrier compensation, it is essential for the Commission to take into consideration the fundamental differences that exist between Alaska and every other state. Two of Alaska's features, in particular, could especially exacerbate any potential negative effects resulting from intercarrier compensation policy changes and should be kept in mind as the Commission deliberates ICC reforms.

First, while virtually every other state has a Bell Operating Company (BOC) as the major provider of intrastate interexchange switching and transport, Alaska does not. In Alaska, interexchange switching and transport is provided primarily by interexchange carriers (IXCs), not incumbent local exchange carriers (ILECs). ILEC provided interexchange service, to the extent that it exists, is generally limited to EAS.³ While ILECs may have interexchange carrier affiliates, these affiliates collectively hold limited market share (under 10%). As a result, a policy that assumes a Bell Operating

³Extended Area Service. Some incumbent LECs also have IXC affiliates that provide resold long distance service.

Company network structure and economies of scale may not work well for Alaska, especially when applied to the small Alaska rural local carriers that operate in areas that are difficult and costly to serve. For example, in Alaska, over 70% of the exchanges served are under 250 lines and receive a high percentage of their total revenues from interexchange access services.

Second, Alaska's public switched and broadband networks are highly dependent on expensive satellite communications. Alaska's size, population density, climate, and limited road system, make wireline or microwave technologies uneconomic alternatives in many remote rural locations. As a result, the unit cost of providing long distance and broadband service to and from rural areas of the state is much higher than in other states.

Due to Alaska's atypical characteristics, the Commission is cautioned that a one-size fits all solution that works well in virtually all other states will not necessarily constitute reasonable reform for Alaska.

For these reasons we ask that the Commission not adopt any intercarrier compensation policy without first understanding the consequences and rate impacts on local exchange carriers, especially those in rural areas. We further request that the Commission not implement changes in policy which result in dramatic reduction in access revenues without also coordinating any needed changes in universal service support through the Universal Service Joint Board.

II. Forbearance from section 254(g) rate averaging and rate integration policies is not justified and would be harmful to Alaska and possibly other states.

In the Further Notice of Proposed Rulemaking (FNPRM), the Commission questions whether in the absence of access charge reform there are “circumstances where the Commission should forbear from the rate averaging and rate integration requirements”.⁴

We believe the answer is an unqualified “no.” The Commission suggests that the alleged harm to national IXCs only arises in the absence of access charge reform. We believe that the possibility of access reform not occurring is remote. Although there is no consensus on how to reform the system, there is nearly universal agreement that the system needs to be reformed. In other words, it is not a question of whether the system will be reformed but how. Therefore, forbearance from rate averaging and rate integration should not be justified based on defects in access charge and interconnection policies once intercarrier compensation reform is complete.

However, even in the absence of reform we question whether the conditions exist which would allow the Commission to forbear from section 254(g). Current rate averaging and rate integration policies are based on over twenty years of

⁴FNPRM, para. 86, FCC 05-33, released March 3, 2005. The Commission also noted:

These requirements may place IXCs that serve rural areas at a competitive disadvantage to those that focus on serving urban areas. For instance, the BOCs offer long distance services only within their regions and not to customers served by high-cost rural LECs. Nationwide IXCs such as AT&T, on the other hand, offer long-distance services in both urban and rural areas, including areas served by rural LECs.

policy development including the convening of the Alaska Federal-State Joint Board, and, ultimately, adoption by Congress in 1996. In its past orders the Commission stated:

The relatively high level of charges resulting from these physical factors and cost considerations has inhibited the free flow of communications between the contiguous states and these points [Alaska and offshore points] *to the disadvantage of all of our citizens*. It is our considered view that the public interest requires that the distinctions [regarding long distance services], particularly with respect to level of charges and rate patterns, should be eliminated.⁵

(Emphasis added.)

The averaging implicit in the [rate integration] procedure has been justified on the grounds that no person should be deprived of telecommunications service at reasonable rates simply because of the high costs associated with serving the user's location.⁶

The reasons for adopting these policies have not suddenly disappeared. Overturning these policies would require more than anecdotal evidence and hypothetical assertions about the existence of implicit subsidies in toll rates. Before reaching a conclusion in favor of forbearance the Commission would need evidence sufficient to conclude that:

- enforcement is not necessary to ensure that the charges practices, classifications, or regulations by, for, or in connection with de-averaged and

⁵CC Docket No. 16495, *Second Report and Order*, para. 35, FCC 72-531, released, June 16, 1972.

⁶CC Docket No. 83-1376, *Notice of Inquiry*, para. 8, FCC 83-606, released January 5, 1984.

de-integrated interexchange service are not just and reasonable and are not unjustly or unreasonably discriminatory;

- further enforcement is unnecessary to protect consumers; and
- forbearance is in the public interest.⁷

We believe it would be difficult for the Commission to reach any one of these conclusions, let alone all three. Rate averaging is not inherently bad and does not necessarily constitute an implicit subsidy. One would be hard pressed to find a tariffed telecommunications service that did not involve averaging of costs between differently situated users. Proving that geographic toll rate averaging rises to the level of impermissible implicit subsidy would require a more rigorous analysis than the illustrative example presented in the FNPRM.

This matter should also not rest simply on a review of how elimination of the rate averaging policy might benefit carriers. We believe that potential benefit and harm *to consumers*, rather than carriers should guide the issue of whether forbearance should occur. Furthermore, to the extent that rate averaging is harming national IXCs under existing access rates, recent events may relieve pressure on these carriers. The two largest national IXCs (AT&T and MCI) are currently in the process of merging with the same regional IXCs to which they are allegedly at a disadvantage. While the proposed mergers may not completely resolve the perceived implicit subsidy problems, they would certainly seem to have a mitigating impact.

⁷See 47 U.S.C. § 160.

We also believe that any proposal in favor of forbearance is flawed to the extent it assumes that IXCs would only target local carriers or areas where access charges are high or would only deaverage in response to access charge rates. IXCs, like all carriers, respond to economic costs; and those costs include more than just access charges. They include the cost of interconnecting with other IXCs and they include their own internal operational and network costs. In Alaska we have hundreds of remote villages that can only be served by expensive satellite technology operated by the IXC. If toll rate averaging were to be eliminated, IXCs serving these areas would have higher than average transport costs and a strong incentive to raise their rates to these customers. Although the impact might not be as pronounced, we believe the same phenomena would occur in other rural or remote areas of the country as well. Higher long distance rates could impact economic development and harm residential rural consumers who rely on long distance services for contact to hospitals, government services, and emergency services.

Nevertheless, if the Commission concludes that continuation of rate averaging and rate integration policies pose a real and quantifiable burden to IXCs, the solution is not to eliminate these policies. Doing so would simply trade one set of problems for another set of problems which the Commission and the states have spent many years trying to resolve. A more appropriate solution is to provide explicit support to IXCs and possibly local carriers affected by these policies; for example, those

facilities-based carriers serving as carriers of last resort in rural and remote locations with unusually high transport costs.

III. The RCA supports the NARUC principles but does not endorse any particular proposal at present.

At this time the RCA does not endorse any particular intercarrier compensation proposal. However, we do support the NARUC principles⁸ and encourage the Commission to be guided by those principles as it moves forward. We also commend the NARUC Intercarrier Compensation Task Force for its efforts to establish dialogue among proponents of the various proposals and attempting to achieve consensus where possible.

IV. Quantification of any proposed impacts is needed.

We strongly encourage the FCC to quantify, or work with the states to quantify, the impacts of each of the various ICC proposals for each state. We realize that it would difficult, if not impossible, to model all aspects of each proposal in detail. However, modeling of at least the broad impacts on the various classes of consumers and carriers is necessary to fully understand or evaluate each proposal. Until this is done, it will be difficult to endorse any of the proposals. Nor should the Commission adopt any of the ICC proposals without a reasonable knowledge of the effects on consumers and carriers.

⁸http://www.naruc.org/associations/1773/files/intercarriercompgoals_whitepaper04.pdf

Conclusion

In summary, we appreciate this opportunity to file comments on the various ICC proposals and policy changes before the Commission. We request that the Commission not forbear from application of rate averaging policies. We ask that the Commission not adopt any ICC proposal without taking adequately into account the potential negative effects on states such as Alaska that have many high cost rural service areas.

RESPECTFULLY SUBMITTED this 23rd day of May, 2005.

/s/

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